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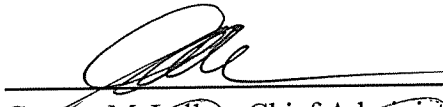


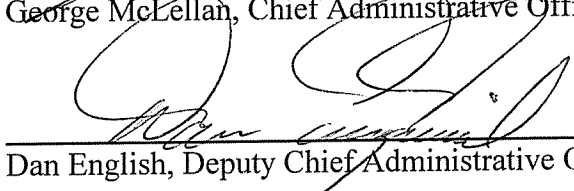
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Halifax Regional Council
June 14, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

DATE: 30 May 2005

SUBJECT: Proposed Legislation Relative to Aggressive Solicitation

ORIGIN

Initiative by Staff to examine municipalities across Canada to determine the most effective process in place to address aggressive soliciting throughout HRM.

RECOMMENDATION

It is recommended that Regional Council request the Province of Nova Scotia to adopt the Safe Streets Act outlined in Appendix A.

BACKGROUND/DISCUSSION

The Police often receive complaints from citizens respecting solicitation on the streets, roadways and sidewalks of the City. These activities reflect poorly on the quality of life in the municipality and leave the impression that the streets, roadways and sidewalks are not safe areas to travel.

The Supreme Court of Canada has considered the issue of panhandling in relation to the freedoms protected by the Charter of Rights and Freedoms and has ruled that panhandling in and of itself is not unlawful. As a result, efforts by governments to legislate against simple panhandling have proved ineffective. However recent legislative efforts by municipalities in legislating against aggressive solicitation and of provincial statutes respecting safe streets have been upheld by the courts.

Unfortunately while such by-laws may be lawful, they have not proved to be particularly effective since they provide no authority for police to arrest or detain the offender and therefore they are unable to prevent the continuation of the offence. If a by-law exists, there is a public expectation that panhandling and related activities would be ended, however since police powers under by-laws are limited, the behaviour will likely continue. In Ontario and British Columbia provincial legislation has been enacted which give police the power to arrest and detain for such offenses. These Statutes are reported to have been effective in reducing the incidents of panhandling and other solicitation activities in those jurisdictions.

Staff are therefore recommending that HRM Council request the Province to consider the introduction and adoption of legislation similar in form to the Bill attached as Appendix "A" to this Report to address this issue.

BUDGET IMPLICATIONS

There are no current year budget implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

Council could direct staff to bring forward an Aggressive Solicitation By-law. However staff do not feel that this would be as effective as a provincial statute because of the lack of police powers of arrest and detention.

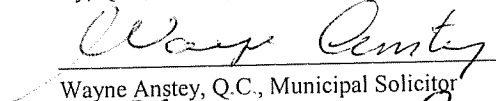
ATTACHMENTS

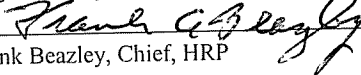
Appendix A: Proposed Safe Streets Act..

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Wayne Anstey, Q.C., Municipal Solicitor

Report Approved by:


Wayne Anstey, Q.C., Municipal Solicitor


Frank Beazley, Chief, HRP

Appendix “A”

An Act To Provide For Safe Streets

Be it enacted by the Governor and Assembly as follows:

Name

1 This Act may be cited as the *Safe Streets Act*.

Definition

2 In this Act,

- (a) "aggressive manner" means a manner that is likely to cause a reasonable person to be concerned for his or her safety or security;
- (b) "highway" has the same meaning as in the *Motor Vehicle Act*;
- (c) "public transit vehicle" means a vehicle operated by, for or on behalf of the Government of Nova Scotia, a municipality in Nova Scotia or a transit commission or authority in Nova Scotia, as part of a regular passenger transportation service;
- (d) "solicit" means to request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means;
- (e) "vehicle" includes automobile, motorcycle, van, truck, trailer, bus, mobile home, traction engine, farm tractor, road-building machine, bicycle, motor-assisted bicycle, motorized snow vehicle, streetcar and any other vehicle drawn, propelled or driven by any kind of power, including muscular power.

Solicitation in aggressive manner prohibited

3 (1) No person shall solicit in an aggressive manner.

Examples

(2) Without limiting subsection (1), a person who engages in one or more of the following activities shall be deemed to be soliciting in an aggressive manner for the purpose of this section:

- (a) Threatening the person solicited with physical harm, by word, gesture or other means, during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (b) Obstructing the path of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation;

- (c) Using abusive language during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (d) Proceeding behind, alongside or ahead of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (e) Soliciting while intoxicated by alcohol or drugs; or
- (f) Continuing to solicit a person in a persistent manner after the person has responded negatively to the solicitation.

Solicitation of captive audience prohibited

4 (1) No person shall,

- (a) solicit a person who is using, waiting to use, or departing from an automated teller machine;
- (b) solicit a person who is using or waiting to use a pay telephone or a public toilet facility;
- (c) solicit a person who is waiting at a taxi stand or a public transit stop;
- (d) solicit a person who is in or on a public transit vehicle;
- (e) solicit a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot; or
- (f) while on a highway, solicit a person who is in or on a stopped, standing or parked vehicle.

Exceptions

(2) Subsection (1) does not apply to fund-raising activities that meet the following conditions:

- (a) They are conducted by a charitable organization recognized by Revenue Canada;
- (b) They are conducted by a non-profit organization on a roadway where the maximum speed limit is 50 kilometres per hour; and
- (c) They are permitted by a By-Law of the municipality.

Offence

5 (1) Every person who contravenes section 3 or 4 of this Statute is guilty of an offence and is liable, on summary conviction

- (a) on a first conviction, to a penalty of not less than one hundred dollars nor more than five hundred dollars; and
- (b) on each subsequent conviction, to a penalty of not less than two hundred dollars nor more than one thousand dollars

or to imprisonment for a term of not more than six months, or to both.

Subsequent conviction

(2) For the purpose of determining the penalty to which a person is liable under subsection (1),

- (a) a conviction of the person of a contravention of Section 3 is a subsequent conviction only if the person has previously been convicted of a contravention of Section 3 or 4; and
- (b) a conviction of the person of a contravention of Section 4 is a subsequent conviction only if the person has previously been convicted of a contravention of Section 3 or 4.

Arrest without warrant

6. A police officer who believes on reasonable and probable grounds that a person has contravened Section 3 or 4 may arrest the person without warrant if,

- (a) before the alleged contravention of Section 3 or 4, the police officer directed the person not to engage in activity that contravenes that section; or
- (b) the police officer believes on reasonable and probable grounds that it is necessary to arrest the person without warrant in order to establish the identity of the person or to prevent the person from continuing or repeating the contravention.